

CONV 367/02

CONTRIB 127

COVER NOTE

from :	Secretariat
to :	Convention
Subject :	Contribution from Mr David Heathcoat-Amory, member of the Convention: “Top down is the wrong way up ”

The Secretary-General of the Convention has received the attached contribution from Mr David Heathcoat-Amory, member of the Convention.

House of Commons,
Westminster,
London SW1A 0AA

24 October 2002

Dear Mr. Secretary-General,

Please find attached a contribution to the Convention for general distribution to members.

It is signed by twenty British Conservatives, who bear considerable experience of European affairs at all levels of government.

Yours sincerely,

Rt Hon David Heathcoat-Amory, MP

Top Down is the Wrong Way Up

A Contribution to the Convention on the Future of Europe from:

The Earl of Onslow
The Earl of Liverpool
Rt Hon the Lord Tebbit of Chingford, CH
Lord Blake
Lord Hanson
Lord Pearson of Rannoch
Rt Hon John Redwood, MP
Sir Teddy Taylor, MP
John Wilkinson, MP
Michael Fabricant, MP
Andrew Rosindell, MP
Murdo Fraser, MSP
Alun Cairns, AM
David Davies, AM
David I. Jones, AM
Roger Helmer, MEP
Sir Richard Body
Christopher Gill (Chairman, Freedom Association)
Cllr Robert Oulds (Director, the Bruges Group)
Dr Lee Rotherham

Top down is the wrong way up!

For many years, the EU's parliamentarians have been at the very end of the line in dealing with Communities legislation. We have been unable so much as to mould laws until such time as they have been effectively already finalised. National parliaments have, in point of truth, become little more than rubber stamping factories, capable only to shape a text insofar as it has been interpreted so as to conform with national law.

Our Select Committees (despite treaty obligations) complain regularly that they receive proposals too late to even discuss them, and not even necessarily in the correct language.

Our electorates first hear of laws when a handful of observant individuals read the *arcana* of the Official Journals and brief the Press about what has already fundamentally been agreed, producing often-ineffectual but widespread public outrage.

Our fellow members of the Houses of Parliament express their concerns in debates, only to be told that so-and-so an issue is already long decided, or that such an issue is the preserve of the Commission and not the responsibility of any Minister.

We need to totally rethink the system, to inject democracy into the Treaties.

Our Parliamentary colleague, David Heathcoat-Amory, MP – the Conservative delegate from the House of Commons – is set shortly to produce a contribution which will merit the closest attention. In the interim, as former Cabinet members, members of the European scrutiny committee, or politicians with an interest in the field, we wish to implore the Convention to step back and think big, so that the next IGC is obliged to tackle the crunch issues which risk destroying the ultimate harmony of this continent, and does not just play with what is on the plate.

A new ethos for an expanded EU

A radical change of thinking is needed, just as much as a radical adjustment of the founding Treaties. Too often Brussels legislators are seen to interfere to further political Union, rather than because it is the right or logical thing to do. In fact such intervention is the European Union's very *raison d'être*. As stated in the very first recital, the objective is "ever-closer union", an objective which may have seemed distant fifty years ago but which now carries with it profound changes in governance. This carries marked consequences today. The federalist drive is not only damaging our national constitutions, but as the EU's own opinion polls - as well as recent referenda – show, the federalist project so lacks popular legitimacy that it is a factor in the breakdown of popular faith in democracy.

Some suggest that the answer to this problem lies in transmitting more power to the European Parliament, and establishing an elected EU Presidency and an EU constitution; in short more centralisation. We maintain, however, that this is an unobtainable and undesirable goal. There is no single *demos* across the EU to make this feasible, and integration means that government will be too remote.

The goal of the European Union should be to encourage co-operation, not to enforce regulations and attempt to transfer our democracy to the emerging EU Superstate. This is even more important if the EU is to accept new members. What is more, globalisation teaches us that what is needed is

flexibility – a Europe of democratic, sovereign, free-trading nation states, that co-operate where necessary but follow their own course when and where appropriate. Europe's history proves that monolithic mega-states do not carry the same economic and social advantages of their smaller, more dynamic cousins where democracy and governance lie closer to the citizen.

The peoples of Europe should now close the book on the notion of ever-closer Union. This is out-dated and out-moded; it is the child of the conflicts of centuries and of a time when bureaucratic control and regulation were seen as a desirable check to the ambitions of demagogic politicians. But time has moved on.

Millennium Thinking

We believe that the role of the Convention on the Future of Europe should be to think again about what course the EU takes, and not to play a part in the federalist's endgame. The ambitions of Monet and Spinelli, from their exiles in London and Ventotene, were noble and for the highest purpose. But their projects were for a federal structure that involved the reduction of national independence and the evolution of a definite, federal construct. We come now to a fork in our common road, where we can opt along either route, either towards this end that now lies in sight of a federal superstate all but in name, or for a style of association more in keeping with the wants and needs of the man on the street.

A new EU should be built, with five guiding principles in mind:

- ◆ The protection and enhancement of individual freedom
- ◆ The encouragement of prosperity
- ◆ The respect of the rule of national parliaments
- ◆ The creation of a flexible European Association
- ◆ The establishment of an EU open to the wider world

Currently, EU law operates as a ratchet. Any area in which the EU has once legislated becomes known as an 'Occupied Field'. The consequence, of course, is that the Communities treaties steadily drift towards the creation of a single European government.

This might have been acceptable a half century ago, when the drift was far off, but the objective is now in sight.

Key amendments to the Treaties are badly needed.

How this can be achieved

Our central proposal to the Convention is that the European Union should be flexible and diverse, not standardised. Power should flow up from the Community's member states, not down from its bureaucracy.

An end must be established to the practice where European law is supreme, resting above that of the

nation state. If a parliament finds legislation so objectionable as to overturn it as contrary to the wishes of the electorate, it is far better to find a manner of conciliation than seen to be forcing upon a democratic state the will of outsiders.

The *acquis communautaire* is a fearsome burden on applicants and existing members combined. A working group should be set up to examine ways to prune it significantly. It should also establish the groundwork for A Repatriation of Powers Conference. All legislation would require a sunset clause.

The sixth recital of the Treaty of the European Communities (TEC) establishes as one of the Community's objectives the progressive abolition of restrictions on international trade. The Johannesburg Conference has lately demonstrated that there the Communities have failed, indeed added to the burdens of third world economies by blocking free trade. The CAP and the whole tariff system needs to be scrapped and rethought, perhaps with national states authorised to pursue like policies individually until such time as each domestic electorate and each national Exchequer learns the costs involved. Likewise, authorisation should be granted for individual countries to agree trading rights with other blocs, such as NAFTA, except in areas where the re-export of produce within the Communities is involved.

It is hard to find any common policy that has so demonstrably failed as the CFP. It is a menace to marine ecology and coastal societies alike, and must be repatriated to national control for fundamental reform before stocks crash entirely, and before applicant fleets and waters accede. We are puzzled why this has not apparently appeared on any Convention agenda to date. Decision-making in the European Union must fundamentally remain the preserve of its member states, which should make bilateral or collective agreements where they see fit, except in so far as there is a direct negative impact on the commercial rights of other Communities states.

The role of the European Commission would be as a research centre producing no more than proposals, suggesting arrangements, and not imposing regulations and directives. It would cease to be a centralising entity in its own right and become a civil service at the service of national parliaments.

The European Parliament should be abolished, as the only useful purpose that it can serve – the scrutinising of the EU budget – would be no more. With no EU budget, there would be consequently no more taxing of the citizens of the EU's member states.

The role of the Council of Ministers would be to hold regular summits where each member state's executive will agree or not to the proposals on the table. But agreements would only be ratified after full and proper scrutiny, and with the positive assent of each national parliament.

Inter-Governmental Conferences would function to produce no more than proposals.

Let Europeans also not forget that the EU is not the only structure by which inter-governmental co-operation can be enhanced. We should cherish the role that the Council of Europe can play; some of the budget lines which are felt to have been EU successes could be passed on to this body. Meanwhile NATO, the guarantor of peace in Europe for 50 years, must be confirmed in its role.

The Consequences of Failure

The EU, as a concept, is failing us. It is breeding an electorate that feels divorced from its representatives, unable to change anything, and suspicious of its product. At the same time, it is

fatally creating a class of governance which deems it holds a divine right to establish a single European order, where all who disagree with the consensus need simply to be indoctrinated (for the uneducated) or destroyed (for the critical).

If history teaches us anything, it is that such an arrogant abrogation of responsibility can only lead to system shock. Recent elections and referenda have already provided the warning signs. Let us rather cure the ailments and create a community for Europe in which all can live. The alternative is too bleak to consider.
